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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/441,987 11/17/99 BURAZIN

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IM52/1106

EXAMINER

CHEVALIER, A

ART UNIT

PAPER NUMBER

1772

DATE MAILED:

11/08/91

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/441,987

Applicant(s)

BURAZIN ET AL.

Examiner

Alicia Chevalier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 23-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-26 and 33-47 in Paper No. 4 is acknowledged.
2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Group	Species	Claims
Tissue paper	A. Roll of Tissue	A. claims 1-22
	B. Throughdried Tissue Sheet	B. claims 23-26
	C. Paper Towel	C. claims 33-47

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. During a telephone conversation with Gregory Croft on October 19, 2001 a provisional election was made without traverse to prosecute the invention of species A, claims 1-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-26 and 33-47 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 and 21-22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Veith et al. (5,356,364).

Veith et al. discloses a tissue web in a rolled product with a bulk of 12 cubic centimeters per gram or greater (col. 2, lines 8-10) and a roll firmness of about 0.23 inches (approximately 6 mm) (see figure 8A).

Since Veith discloses the same properties in a roll of tissues as desired by applicant it is inherent that the tissue web of Veith have an absorbent capacity of 5 grams of water per gram of fiber or more and have an absorbent rate of about 4 seconds or less.

8. Claims 1-22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wendt et al. (5,672,248).

Wendt et al. discloses throughdried tissue sheets with a bulk of about 13 to about 20 cubic centimeters per gram, where the bulk is defined as the caliper of a single ply of product divided by its basis weight (col.3, lines 39-41). Furthermore, such tissue sheets having a basis weight in the range from about 10 to about 70 grams per square meter (col. 3, lines 51-53), which makes a single sheet caliper about 0.013 to about 0.14 centimeters (which is approximately 0.005 to 0.05 inches). The tissue also having a geometric mean modules (geometric mean slope)/geometric mean tensile strength of less than 5 (figure 6, col. 10, lines 27-

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46), which is the geometric mean stiffness defined as the geometric mean slope divided by the geometric tensile strength. Plus, the tissue sheets have an absorbent capacity of about 11 grams of water per gram of fiber or greater (col. 3-4, lines 66-2).

Since, the absorbent rate of the tissue is determined by basically the same procedure as the absorbent capacity (see specification page 6, lines 26-30) and Wendt discloses the same method of determining the absorbent capacity with similar results and almost all of the applicants' claimed features, the limitation of the "absorbent rate of about 4 seconds or less" is considered to be an inherent property. Also, since Wendt discloses almost all of the applicants' claimed features the limitation of the tissue sheets having a "roll firmness from 4 to about 7 millimeters" is considered to be an inherent property. Finally, with these values the tissues have a roll bulk/roll firmness ratio of about 28.6 to about 32.5 square centimeters per gram and a roll bulk/roll firmness/single sheet caliper ratio of 204 centimeters per gram or greater.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendt (5,672,248) in view of Veith (5,356,364).

Wendt discloses throughdried tissue sheets with a bulk of about 13 to about 20 cubic centimeters per gram, where the bulk is defined as the caliper of a single ply of product divided

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by its basis weight (col.3, lines 39-41). Furthermore, such tissue sheets having a basis weight in the range from about 10 to about 70 grams per square meter (col. 3, lines 51-53), which makes a single sheet caliper about 0.013 to about 0.14 centimeters (which is approximately 0.005 to 0.05 inches). The tissue also having a geometric mean modulus (geometric mean slope)/geometric mean tensile strength of less than 5 (figure 6, col. 10, lines 27-46), which is the geometric mean stiffness defined as the geometric mean slope divided by the geometric tensile strength. Plus, the tissue sheets have an absorbent capacity of about 11 grams of water per gram of fiber or greater (col. 3-4, lines 66-2).

Since, the absorbent rate of the tissue is determined by basically the same procedure as the absorbent capacity (see specification page 6, lines 26-30) and Wendt discloses the same method of determining the absorbent capacity with similar results and almost all of the applicants' claimed features, the limitation of the "absorbent rate of about 4 seconds or less" is considered to be an inherent property.

Wendt fails to disclose a roll firmness value.

Veith discloses a tissue web in a rolled product with a bulk of 12 cubic centimeters per gram or greater (col. 2, lines 8-10) and a roll firmness of about 0.23 inches (approximately 6 mm) (see figure 8A).

The combination of Wendt and Veith would have a roll bulk/roll firmness ratio of about 21.6 square centimeters per gram or greater and a roll bulk/roll firmness/single sheet caliper ratio of 154 centimeters per gram or greater.

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It would have been obvious to one of ordinary skill in the art at the time of the invention that the tissue sheets of Wendt would have the same roll firmness as Veith's tissue web since they are similar tissues.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (703) 305-1139. The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 5:00 p.m. The Examiner can also be reached on alternate Fridays

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Blaine Copenheaver can be reached by dialing (703) 308-1261. The fax phone number for the organization official non-final papers is (703) 305-5436. The fax number for after final papers is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose phone number is (703) 308-0661.

ac

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